IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	) Group Art Unit: 2442
	)
Xin Xue *et al.*	) Examiner: Blair, Douglas B.
	)
Serial No.: 10/666,888	)
	) **AMENDMENT AND RESPONSE TO**
Filed: September 17, 2003	) **OFFICE ACTION MAILED ON**
	) **October 19, 2011**
	)
For: **VERSION BASED CONTENT**	) 162 N. Wolfe Road
DISTRIBUTION AND	) Sunnyvale, CA 94086
SYNCHRONIZATION SYSTEM	) (408) 530-9700
AND METHOD	)
	) Customer Number 28960

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

AMENDMENT

Please amend the above-titled application as follows:

Remarks begin on page 2 of this paper.

REMARKS

Applicant respectfully requests further examination and reconsideration in view of the comments set forth fully below. Claims 1-20 and 29-51 were previously pending in this application. Within the Office Action, Claims 1-20 and 29-51 have been rejected. Claims 12 and 21-28 were previously canceled. Accordingly, Claims 1-11, 13-20 and 29-51 are now pending in this application.

Rejections Under 35 U.S.C. § 112

Within the Office Action, Claims 29-34 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, it has been stated within the Office Action, that the Present Specification does not provide support for increasing a subscriber version identifier in response to the second signal if the first signal is larger than the second signal. Applicant respectfully disagrees. Support for Claim 29, specifically, Claim 29, element e, can be found at least in page 13, lines 6-23 and page 14, line 18 through page 15, line 9 of the Present Specification. Specifically, the Present Specification states that "[t]he subscriber content identification circuit is configured to receive the version identifier and the first content stored within the server. In addition, the subscriber content identification circuit is configured to generate a second signal representative of a subscriber version identifier." [Present Specification, page 13, lines 11-14] The Present Specification, further states, "[i]f it is determined at the step 506 that the subscriber version number is less than the current version number, then the content stored within the syndicator is downloaded to the subscriber at the step 507. The subscriber number is then increased to correspond to the current version number at the step 508." [Present Specification, page 15, lines 3-6] Thus, the subscriber number (or subscriber version identifier) is increased in response to the subscriber version number being less than the current version number (or, in other words, the current version number being larger than the subscriber version number). Since the first signal represents the current version identifier, and the second signal represents the subscriber version identifier, then the subscriber version identifier is increased in response to the second signal if the first signal is larger than the second signal. Therefore, the rejection of Claims 29-34 should be withdrawn.

Rejections Under 35 U.S.C. § 103

Within the Office Action, Claims 1-14, 29-31, 34-41 and 44-49 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,009,274 to Fletcher et al. ("Fletcher") in view of U.S. Patent No. 5,765,992 to Kullick et al. ("Kullick") and U.S. Patent No. 5,835,911 to Nakagawa et al. ("Nakagawa"). The Applicants respectfully disagree.

Claim 12 has previously been canceled. Within the Office Action, it has been stated that Fletcher teaches "the updates are 'user-programmable' and thus based on the users preferences." [Office Action page 5, citing Fletcher, col. 5, lines 33-38] Applicants respectfully disagree that the cited section teaches the claim limitation "wherein the subscriber receives the content based on preferences set by a user of the subscriber." The actual cited section teaches, "[w]hen it is time to update the agents, as defined through a user-programmable ASU manager (ASU Mgr.), the ASU server accesses the table and sends out files to the agents." [Fletcher, col. 5, lines 33-38] Therefore, the ASU manager is user-programmable. However, the ASU manager being user-programmable does not teach the limitation wherein the subscriber receives the content based on preferences set by a user of the subscriber.

Fletcher teaches a method and apparatus for automatically updating software components in one or more agents (end systems) in a network. A server generates a multicast request to agents within its network domain, identifying the newest, available versions of software components that may be installed on the agents. Agents compare installed versions with the newest versions and respond to the server request by indicating components that need to be updated. Components include network and non-network software as well as operating system (OS) software. The server then transmits the requested components to the requesting agents in a self extracting compressed file. The file is installed and the components updated without rebooting system software. [Fletcher, Abstract] Fletcher also teaches updating when there is a discrepancy which includes where the version of one component currently running on the agent is older than or outdated by the latest or newest version available from the server. [Fletcher, column 10, lines 55-66] Fletcher further teaches, "[a]gents can make decisions as to whether or not a component should be requested, for example where the component in question may conflict with other components currently running on the agent." [Fletcher, col. 11, lines 7-10] However, Fletcher does not teach wherein the subscriber receives content based on preferences set by a user of the subscriber. Additionally, as is recognized within the Office Action, Fletcher does not teach that a newer version has a higher number nor does Fletcher explicitly teach increasing the subscriber content version number once a download occurs. More specifically, Fletcher does not

teach a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber content version number.

Kullick teaches a software program that is automatically managed, monitored and updated with a newer version in a completely automated fashion. This is achieved by means of a control module that performs the functions of locating and identifying other versions of its associated program, determining whether the other versions are older or newer than currently stored versions, and downloading a newer version. Multiple versions of the program can remain accessible on the computer, and the control module manages the launching of a particular version that may be required. Statistical data relating to the launching and operation of the program is collected, and uploaded to a central location on a regular basis. [Kullick, Abstract] Kullick also teaches multiple versions of applications are able to be stored. [Kullick, col. 5, lines 20-32] However, Kullick does not teach a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber content version number. Additionally, Kullick does not teach wherein the subscriber receives content based on preferences set by a user of the subscriber.

Nakagawa teaches distributing and maintaining software via a network connecting many vendors and users of client/server software. A client program in a user computer detects when software subject to maintenance is activated and transmits an inquiry over the network to the software vendor's computer for information on the current version of the software. The server program compares data in the inquiry with data relating to the latest version of the software and returns update instruction information and updated software if appropriate. The client program automatically updates the software to the latest version according to the update instruction information when it is received. The client program can also send inquires at predetermined times, or in response to a user command. The inquiry can include a request for purchase information in which case the server checks qualifications of the user, processes the inquiry according to vendor management data and returns the requested software, if appropriate. Other inquiries can also be made in response to user commands or automatically, e.g., to obtain information on the most recent version and transmission of data from client to server in response to an abnormal termination of client software. [Nakagawa, Abstract] Nakagawa also teaches each

of the object software is assigned a version number indicating update information, and that the version number is incremented each time the software is updated. [Nakagawa, col. 37, lines 13-17] However, Nakagawa does not teach a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber content version number. Nakagawa also does not teach wherein the subscriber receives content based on preferences set by a user of the subscriber.

In contrast to the teachings of Fletcher, Kullick, Nakagawa and their combination, the presently claimed invention teaches systems and methods that distribute and synchronize version based content from a syndicator to a subscriber. [Present Specification, page 1, lines 7-8]. The syndicator can comprise any appropriately configured computer system or wireless internet access device. The syndicator includes a CPU 2, a main memory 6, a display adapter 4, a version based content storage device 10, a data transfer circuit 8, and a data synchronization circuit 12, all coupled together by a conventional bidirectional system bus 18. [Present Specification, page 8, lines 13-19] The syndicator is configured to distribute the version based content and the subscriber is configured to store the version based content as well as the subscriber content. [Present Specification, lines 12-14]. The subscriber is configured to compare the version based content's version number with the subscriber content version number. If the version based content's version number is higher than the subscriber's content version number, then the subscriber is configured to store the content from the syndicator and increase the subscriber version number. [Present Specification, page 2, lines 18-21 and page 6, lines 1-9].

Fletcher, Kullick, Nakagawa and their combination do not teach a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber content version number. Similarly, Fletcher, Kullick, Nakagawa and their combination do not teach downloading the content to be distributed from the syndicator to the subscriber if the subscriber version number is found to be less than the syndicator version number during the synchronization verification. Additionally, Fletcher, Kullick, Nakagawa and their combination do not teach wherein the subscriber receives content based on preferences set by a user of the subscriber. Accordingly, Fletcher, Kullick, Nakagawa and their combination do not teach the presently claimed invention.

Claim 1

The independent Claim 1 is directed to a version based content distribution system comprising content comprising a version number, a syndicator, wherein the syndicator is configured to transmit the version number, subscriber content comprising a subscriber content version number, and a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber content version number, wherein the syndicator is remote from the subscriber, wherein the subscriber receives the content based on preferences set by a user of the subscriber. As discussed above, Fletcher, Kullick, Nakagawa and their combination do not teach a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber content version number. Fletcher, Kullick, Nakagawa and their combination do not teach wherein the subscriber receives content based on preferences set by a user of the subscriber. For at least these reasons, the independent Claim 1 is allowable over Fletcher, Kullick, Nakagawa and their combination.

Claims 2-11, 13 and 14 are all dependent from the independent Claim 1. As discussed above, the independent Claim 1 is allowable over Fletcher, Kullick, Nakagawa and their combination. Accordingly, Claims 2-11, 13 and 14 are all also allowable as being dependent upon an allowable base claim.

Claim 29

The independent Claim 29 is directed to a content subscription system. The content subscription system of Claim 29 comprises a server, a subscriber, a server content identification circuit configured to transmit a first signal representative of a version identifier, wherein the version identifier corresponds to a first content stored within the server, a subscriber content identification circuit configured to receive the version identifier and the first content stored within the server, wherein the subscriber content identification circuit is further configured to generate a second signal representative of a subscriber version identifier, wherein the subscriber version identifier corresponds to a second content stored within the subscriber, and a content control circuit configured to transmit the first content to the subscriber content identification circuit, wherein the subscriber version identifier is increased in response to the second signal if

the first signal is larger than the second signal, wherein the server, the server content identification circuit and the content control circuit are remote from the subscriber and the subscriber content identification circuit, wherein the subscriber receives the content based on preferences set by a user of the subscriber. As described above, Fletcher, Kullick, Nakagawa and their combination do not teach a subscriber configured to store the subscriber content, to compare the version number with the subscriber content version number, and to receive the content from the syndicator and increase the subscriber content version number if the version number is larger than the subscriber content version number. Fletcher, Kullick, Nakagawa and their combination do not teach wherein the subscriber receives content based on preferences set by a user of the subscriber. For at least these reasons, the independent Claim 29 is allowable over Fletcher, Kullick, Nakagawa and their combination.

Claims 30, 31 and 34 are both dependent from the independent Claim 29. As discussed above, the independent Claim 29 is allowable over Fletcher, Kullick, Nakagawa and their combination. Accordingly, Claims 30, 31 and 34 are both also allowable as being dependent upon an allowable base claim.

Claim 35

The independent Claim 35 is directed to a method of distributing content. The method of Claim 35 comprises defining a version number for content stored on a computer readable storage medium within a syndicator, increasing the version number when the content stored within the syndicator is updated, defining a subscriber version number for content stored on a computer readable storage medium within a subscriber, wherein the subscriber is remote from the syndicator, wherein the subscriber receives the content based on preferences set by a user of the subscriber, transmitting the version number from the syndicator to the subscriber, performing a synchronization verification wherein the subscriber version number is compared to the version number, downloading the content stored within the syndicator to the subscriber if the subscriber version number is found to be less than the version number during the synchronization verification, and increasing the subscriber version number to correspond to the version number following downloading of the content stored within the syndicator. As described above, Fletcher, Kullick, Nakagawa and their combination do not teach downloading the content stored within the syndicator to the subscriber if the subscriber version number is found to be less than the version number during the synchronization verification. Fletcher, Kullick, Nakagawa and their combination do not teach wherein the subscriber receives content based on preferences set by a

user of the subscriber. For at least these reasons, the independent Claim 35 is allowable over Fletcher, Kullick, Nakagawa, and their combination.

Claims 36-41 are all dependent from the independent Claim 35. As discussed above, the independent Claim 35 is allowable over Fletcher, Kullick, Nakagawa and their combination. Accordingly, Claims 36-41 are all also allowable as being dependent upon an allowable base claim.

Claim 44

The independent Claim 44 is directed to a method of distributing content to a subscriber comprising defining a subscriber version number for content stored on a computer readable storage medium within a subscriber, receiving a syndicator version number for content to be distributed from a syndicator to the subscriber, wherein the syndicator is remote from the subscriber, wherein the subscriber receives the content based on preferences set by a user of the subscriber, performing a synchronization verification wherein the subscriber version number is compared to the syndicator version number, downloading the content to be distributed from the syndicator to the subscriber if the subscriber version number is found to be less than the syndicator version number during the synchronization verification and increasing the subscriber version number to correspond to the syndicator version number following downloading of the content. As described above, Fletcher, Kullick, Nakagawa and their combination do not teach downloading the content to be distributed from the syndicator to the subscriber <u>if the subscriber version number is found to be less than the syndicator version number during the synchronization verification</u>. Fletcher, Kullick, Nakagawa and their combination do not teach wherein the subscriber receives content based on preferences set by a user of the subscriber. For at least these reasons, the independent Claim 44 is allowable over Fletcher, Kullick, Nakagawa and their combination.

Claims 45-49 are all dependent from the independent Claim 44. As discussed above, the independent Claim 44 is allowable over Fletcher, Kullick, Nakagawa and their combination. Accordingly, Claims 45-49 are all also allowable as being dependent upon an allowable base claim.

Within the Office Action, Claims 15-17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Fletcher in view of Kullick and Nakagawa and in further view of U.S. Patent No. 6,990,498 to Fenton et al. The Applicants respectfully disagree.

Claims 15-17 are all dependent from the independent Claim 1. As discussed above, the independent Claim 1 is allowable over Fletcher, Kullick and Nakagawa. Accordingly, Claims 15-17 are all also allowable as being dependent upon an allowable base claim.

Within the Office Action, Claims 18, 19, 32, 33, 42, 43, 50 and 51 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Fletcher in view of Kullick and Nakagawa and in further view of U.S. Patent No. 6,493,748 to Nakayama et al. The Applicants respectfully disagree.

Claims 18 and 19 are dependent from the independent Claim 1. As discussed above, the independent Claim 1 is allowable over Fletcher, Kullick and Nakagawa. Accordingly, Claims 18 and 19 are both also allowable as being dependent upon an allowable base claim.

Claims 32 and 33 are dependent from the independent Claim 29. As discussed above, the independent Claim 29 is allowable over Fletcher, Kullick and Nakagawa. Accordingly, Claims 32 and 33 are both also allowable as being dependent upon an allowable base claim.

Claims 42 and 43 are dependent from the independent Claim 35. As discussed above, the independent Claim 35 is allowable over Fletcher, Kullick and Nakagawa. Accordingly, Claims 42 and 43 are both also allowable as being dependent upon an allowable base claim.

Claims 50 and 51 are dependent from the independent Claim 44. As discussed above, the independent Claim 44 is allowable over Fletcher, Kullick and Nakagawa. Accordingly, Claims 50 and 51 are both also allowable as being dependent upon an allowable base claim.

Within the Office Action, Claim 20 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Fletcher in view of Kullick and Nakagawa and in further view of U.S. Patent No. 6,119,165 to Li et al. The Applicants respectfully disagree.

Claim 20 is dependent from the independent Claim 1. As discussed above, the independent Claim 1 is allowable over Fletcher, Kullick and Nakagawa. Accordingly, Claim 20 is also allowable as being dependent upon an allowable base claim.

For the reasons given above, the Applicants respectfully submit that the claims are in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: January 4, 2012   By: /Jonathan O. Owens/

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